

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAMELA R. MILLER,

Plaintiff,

CASE NO. 1:12-CV-150

v.

HON. ROBERT J. JONKER

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Scoville's Report and Recommendation in this matter (docket # 23) and Plaintiff's Objections to the Magistrate Judge's Report and Recommendation (docket # 24). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. The Court finds the Magistrate Judge's Report and Recommendation (docket # 23) is factually sound and legally correct.

The Magistrate Judge recommends affirming the decision of the ALJ to deny Plaintiff's request for disability insurance benefits. In her Objections, Plaintiff primarily reiterates and expands arguments she made in her initial brief. The Report and Recommendation already carefully, thoroughly, and accurately addresses each of those arguments. Nothing in Plaintiff's Objections adds to or otherwise changes the analysis. To the extent Plaintiff claims the Magistrate Judge failed to consider the factors delineated in *Gayheart v. Commissioner of Social Security*, 710 F.3d 365 (6th Cir. 2013), Plaintiff is mistaken. The Magistrate Judge correctly found that the ALJ provided good reasons for discounting the weight given Dr. Ruth's opinion and specific support for his decision to do so. *See Gayheart*, 710 F.3d at 376. The Magistrate Judge properly concluded that substantial evidence supports the ALJ's decision.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket # 23) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the Commissioner's decision is **AFFIRMED**.

/s/Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE

Dated: August 21, 2014